

REMARKS

In amended Figure 7, the previously omitted line and element numeral 712 has been added.

Applicant respectfully requests reconsideration of this application as amended. Claims 1-45 remain in the application. Claims 1, 12, 23, 34 and 45 have been amended to clarify the language of the claims. No claims have been canceled.

Rejections Under 35 U.S.C. § 112

The Examiner has rejected claim 34 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. Applicant respectfully submits that claim 34, as amended, satisfy the requirement of 35 USC §112, second paragraph and respectfully requests the rejection to the claim be withdrawn under §112.

Rejections Under 35 U.S.C. § 103(a)

Claims 1-5, 8, 12-16, 19, 23-27, 30, 34-38, 41 and 45 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,629,752 of Kinjo ("Kinjo") in view of U.S. Patent No. 5,864,630 of Cosatto et al. ("Cosatto").

In paragraph 9 of the Office Action, the examiner states that neither Kinjo nor Cosatto disclose performing a logical AND on said first area and said second area, as recited in claims 1, 23, 34 and 45. Instead the Examiner is taking Official Notice of this missing element. Applicant respectfully objects to such Official Notice and requests the Examiner cite references in support of this position.

Furthermore, Applicant respectfully submits that Cosatto does not teach nor suggest selecting portions of said third area with suitable hue saturation to form said at least one candidate patch, as asserted in the Office Action. Specifically, the color analysis in Cosatto (column 12, line 14-29) pointed out in the Office Action by does not perform a color analysis on a third area based on a logically AND of first area and second area, but is simply one of the three channels described by Cosatto (see elements 11, 12, and 13 in Figure 1a) that are used to locate objects in an image. Since the combination of Kinjo and Cosatto do not disclose nor suggest performing a logical AND on the first and second areas, then the combination cannot disclose nor suggest selecting portions of said third area with suitable hue saturation, as claimed. Accordingly, Applicant respectfully submits that the combination of Kinjo and Cosatto do not teach nor suggest each and every element of claims 1, 12, 23, 34, and 45 under 35 USC 103. Therefore, Applicant respectfully requests the rejection of the claims be withdrawn. Dependent claims 2-5, 8, 13-16, 19, 24-27, 30, 35-38, and 41 are dependent (directly or indirectly) on one of the claims 1, 12, 23, 34, and 45. Therefore, Applicant requests the rejection of dependent claims 2-5, 8, 13-16, 19, 24-27, 30, 35-38, and 41 be withdrawn, at least for the reasons stated above.

Claims 6, 7, 9-11, 17, 18, 20-22, 28, 29, 31-33, 39, 40 and 42-44 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,629,752 of Kinjo ("Kinjo") in view of U.S. Patent No. 5,864,630 of Cosatto et al. ("Cosatto") as applied to claims 1, 8, 12, 19, 23, 30, 34 and 41 above, and further in view of U.S. Patent No. 5,781,650 of Lobo et al. ("Lobo").

As articulated above, claims 1, 12, 23, 34, and 45 are patentable over the combination of Kinjo and Cosatto. Lobo fails to cure the underlying deficiencies of the

base combination, including the failure to teach or suggest the elements or elements similar to performing a logical AND on said first area and said second, as discussed above. Hence, Applicant respectfully submits that claims 6, 7, 9-11, 17, 18, 20-22, 28, 29, 31-33, 39, 40 and 42-44 are patentable over the combination of references and respectfully requests the rejection to these claims be withdrawn.

CONCLUSION


Applicant respectfully submits that the rejections have been overcome by the amendments and remarks, and that the Claims as amended are now in condition for allowance. Accordingly, Applicant respectfully requests the rejections be withdrawn and the Claims as amended be allowed.

If there are any additional charges, please charge Deposit Account No. 02-2666 for any fee deficiency that may be due.

Respectfully submitted,

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